

Date signed May 03, 2006



Paul Mannes

PAUL MANNES
U. S. BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
at Greenbelt

IN RE: :
JAMAL ALFONSO MONTAGUE :
Debtor :
-----:
JAMAL ALFONSO MONTAGUE :
Movant :
vs.
ORTHOPOAEDICS & SPORTS MEDICINE :
Respondent :
-----:
JAMAL ALFONSO MONTAGUE :
Movant :
vs.
EBI MEDICAL SYSTEMS, INC. :
Respondent :
-----:

Case No. 04-35089PM
Chapter 7

MEMORANDUM OF DECISION

This case is before the court on two Motions to avoid liens pursuant to § 522(f) of the Bankruptcy Code. While the Motions are ill-conceived in that the subject property is not subject to a judicial lien and thus not subject to avoidance under § 522(f) of the Bankruptcy Code, because of the totality of the circumstances presented, the court will pass an order granting James J.M. Vaughan, Esquire, the party holding the funds, authority to release them to the Debtor.

Debtor claimed these funds as exempt on his Schedule C, and no party filed a timely objection. Therefore, no one could contest the validity of the claimed exemption, although it was improperly taken. *Taylor v. Freeland & Kronz*, 503 U.S. 638 (1992).

These funds came in to the possession of Mr. Vaughan, Debtor's personal injury counsel, as the result of settlement of a case brought by him on Debtor's behalf. Neither of the two Respondents, Orthopaedics & Sports Medicine LLC or EBI Medical Systems, Inc., appears to have laid any claim to these funds. In any event, the corporate charters of both of these entities have been forfeited. An appropriate order will be entered.

cc:

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The Corporation Trust Incorporated, Resident Agent for EBI Medical Systems, Inc.

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Adrian R. Garner, Esq. Resident Agent for Orthopaedics & Sports Medicine LLM,

6611 Kenilworth Avenue, Suite 403, Riverdale, Md 20737

Merrill Cohen, Trustee, 7910 Woodmont Avenue, Suite 760, Bethesda, MD 20814

End of Memorandum